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09/742,527	12/21/2000	John P. Blasko	T721-14	6850

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME  
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EXAMINER
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RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/742,527

**Applicant(s)**

BLASKO ET AL.

**Examiner**

Yehdega Retta

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 85-112 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 85-112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/17/06</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to the filing of Request for Continued Examination (RCE) filed July 17, 2006. Applicant amended claim 1, added new claims 85-112 and canceled claims 42-84. Claims 1-21 and 85-112 are currently pending.

#### ***Claim Rejections - 35 USC § 112***

Claims 101-112 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 101 recites receiving a programming selection from user and generating a price for said avails corresponding to said program selection stored in the inventory of future avails. Claim 105 recites receiving a correlation selection from a user ... and generating price for said avails corresponding to said correlation selection. Applicant's specification discloses allowing advertiser (user) to select certain segment characteristics; the correlation & analysis module performing an analysis of available addressable units (see page 6 line 5-22); using user interface device 30 user receives complete analysis of the user's preferred market segment, available of avails and avail pricing adjusted to fit the needs of the user (page 12 line 11 to page 13 line 26; user select parameters which determine or vary the price of the available avails and such parameters are referred to herein as "price-setting" parameters ... (page 18 lines 12-31). No where in the specification is discloses that programming selection or correlation selection from

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user is received and proposed price is generated based on the programming or correlation selection and the inventory avails obtained based on the selection.

Claims 1, 95-97, 101, 105 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite inventory of future avails. Applicant indicated page 10 line 26 to page 11 line 3 for the support in the specification. However the specification does not teach “future avails”. The specification teaches inventory avails, however those avails are not indicated as future avails.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-13, 16-21 and 85-112 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US 6,463,585).

Regarding claims 1, 85-87, Hendricks teaches correlating available addressable units of a communication network with avails (advertising opportunities or slots) (see fig. 4, col. 4 line 54 to col. 5 lines 51). Hendricks teaches purchase of an avail on results of correlation (see col. 36 line 57 to col. 37 line 12). Hendricks teaches selecting a set of advertisements used in the chosen grouping by the advertisers and the frequency of display based on number of requests and cost paid by the respective advertisers to have the commercial displayed (see col. 71 lines 3-49). Hendricks also teaches algorithm supporting different rates charged to different advertisers, which indicates that Hendricks generates a price before the selecting advertisement. Hendricks teaches during the placement of the advertising it is taken into account that the advertiser' budget is not exceeded.

Regarding claim 2, Hendricks teaches storing addressable unit data comprising information concerning characteristics of individuals associated with the addressable units (see col. 26 line 42 to col. 27 line 38 col. 42 line 65 to col. 43 lines 5, col. 48 line 23-31); receiving segment characteristics of a market segments from a user (see col. 30 line 54 to col. 31 line 55); correlating the received segment with the stored addressable unit data and automatically identifying the available addressable units to be correlated with the avail (see col. 21 lines 19-44, col. 68 line 48-60; col. 70 line 40 to col.71 line 45).

Regarding claims 3, 4, Hendricks teaches storing geo-demographic data and correlating geographic area with addressable unit data to identify the available units (see col. 4 line 54 to col. 5 line 50, col. 26 lines 42-67, col. 29 lines 6-60, Table D).

Regarding claims 6, 7, 18, Hendricks teaches storing viewership data identifying types of materials that viewers associated with the units and correlating the data with available units and identifying at least one avail associated with the list of materials (see col. 20 lines 4-35, col. 47 lines 33-60, col. 66 line 16 to col. 67 lines 4, col. 68 line 48-55, col. 70 line 40 to col. 41 line 49).

Regarding claims 8-13, Hendricks teaches selecting a set of advertisements used in the chosen grouping by the advertisers and the frequency of display based on number of requests and cost paid by the respective advertisers to have the commercial displayed (see col. 71 lines 3-49). Hendricks also teaches the algorithm supporting different rates charged to different advertisers and taking into account the advertiser's budget and defining unique target categories and groups for an advertiser etc., wherein the parameters include at least one of a size of addressable units and a number of avails (see col. 37 lines 1-10, col. 71 lines 10-49).

Regarding claim 16 Hendricks teaches receiving payment information from a user for purchasing the at least one avail and processing the payment (see col. 71 lines 10-49).

Regarding claims 17 and 19-21 Hendricks teaches communication network as television service network or Internet and the units as set top boxes or nodes (see 9 lines 47-58, col. 64 line 55 to col. 65 line 14).

Regarding claims 88-90, 95-100 Hendricks does not explicitly teach receiving a market segment selection from a user (see col. 31 lines 1-6); Hendricks teaches obtaining a record of segment specific addressable units available belonging to a market segment; obtaining avails corresponding to the segment addressable units and generating a proposed price for avails in said inventory of *future avails*; prior to selecting ads to be displayed (col. 20 lines 20-34, col. 31 lines

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1-55 and col. 36 lines 56-67); wherein the price is dependent on a particular programming slot (see col. 35 line 1 to col. 37 line 57).

Regarding claims 91-94, Hendricks teaches determining the likelihood that a generic viewer in said market segment will watch said program; pricing based on the likelihood and based on time slot (see col. 26 line 13 to col. 27 line 67, col. 21 lines 29-48).

Regarding claims 101-112, Hendricks teaches generating a listing of addressable units (col. 5 lines 1-28); obtaining an inventory of avails corresponding to programs (see col. 5 line 29 to col. 6 line 13) and generating price for available avails based on the program; time slot or channel; market segment; addressable units; receiving market segment (see col. 20 line 4 to col. 21 line 44, col. 31 lines 1-55, col. 36 line 55 to col. 37 line 12, col. 71 lines 3-49).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks further in view of Hunter (US 6,424,998).

Regarding claims 14 and 15 Hendricks is silent in regard to displaying the generated proposed price and a display device and the proposed price is overlaid on a display of available addressable units. Hunter teaches providing a customer interface (input device) for customer to see what time slot is available and for scheduling and purchasing the desired advertising time

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slot (see col. 4 lines 1-28 and col. 5 lines 1-51 and col. 8 lines 44-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to include a display and input means, as in Hunter, in Hendricks advertisement system to provide customers with direct access to schedule and purchase time from available slots according to their preferences, as taught by Hunter (see col. 8 lines 44-67).

Regarding claim 5, Hendricks teaches use of graphical tools for analysis of data through the use of multiple graphic types such as line graphs, bar and charts, and teaches advertisers selecting subscriber based on demographic profile (see col. 30 line 65 to col. 31 line 6, col. 68 lines 48-55, col. 70 lines 31-67). It is well known in the art of geographic information system to provide geographic or location data in a form of a map. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the geographic data in the using a map since a map provides an easy and user-friendly view of geographic location.

### ***Response to Arguments***

Applicant's arguments filed February 23, 2006 have been fully considered but they are not persuasive. Applicant's arguments have already been addressed before in the previous office action.

Applicant argues although Hendricks takes advertiser preference into consideration when billing up advertisement avail slots, Hendricks' system does not give advertisers the option of selecting particular ad slots. Applicant alleges that only after the advertisements have been scheduled and displayed is the billing cost to the advertiser calculated and cites col.71 lines 42-49 for reference. Applicant also argues that Hendricks does not disclose correlating available



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addressable units of the communication network with avail inventory data. Examiner disagrees.

Hendricks teaches storing addressable unit data comprising information concerning characteristics of individuals associated with the addressable units (see col. 26 line 42 to col. 27 line 38 col. 42 line 65 to col. 43 lines 5, col. 48 line 23-31); receiving segment characteristics of a market segments from a user (see col. 30 line 54 to col. 31 line 55); correlating the received segment with the stored addressable unit data and automatically identifying the available addressable units to be correlated with the avail (advertisement spots) (see col. 21 lines 19-44, col. 68 line 48-60; col. 70 line 40 to col. 71 line 45). Hendricks teaches the targeting advertising uses targeting categories and independent groups within each target category to tie three entities together; (1) set top terminals, (2) advertisement and (3) programs. Hendricks teaches the category based on numerous factors, one method to assign the set top terminals to groups is to use the zip code or to tie each terminal to groups within the targeting category. Programs tied to the groups using viewership data (see col. 35 lines 1-67). Hendricks also teaches using the information above the spot placement engine determines how many feeder channels are assigned to which program (advertisement spots) and which targeting category is used for which program, which advertisement air on which feeder channel/program channels and which groups are assigned to which feeder. Further Hendricks teach the algorithm spreads the available feeder channels among several programs and the algorithm can also be modified to support different rates charged to different advertisers and take into account ensuring advertiser's budget is not exceeded, defining unique target categories and groups for an advertiser (presumes the advertiser can apply the population of set top terminals to their group definitions), etc. Contrary to applicant's argument Hendricks teaches correlating available addressable units (set top

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terminals) with avail inventory data (advertisement spots available) and generating a proposed price (rate charged to different advertisers) for the advertisement spot (see col. 35 line 1 to col. 36 line 67). Applicant argues that only after the advertisements have been scheduled and displayed is the billing cost to the advertiser calculated and cites col. 71 lines 42-49. Examiner would like to point out to applicant that the column cited by applicant states once the subroutine completes this steps (step of correlation algorithm) the controller updates the account and billing database based on the ads that are sent to the signal processor for subscriber viewing, this billing database updates **allow the advertisers to track the costs and frequency of the advertisements targeted to specific set top terminal**. Applicant does not claim when the user (advertiser) is billed and when the advertiser is allowed to track the cost, instead the claimed step is to generate a proposed price for purchase of at least one avail and Hendricks teaches price rate for purchase of an available avail.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

  
**RETTA YEHEDEGA**  
**PRIMARY EXAMINER**